

# RECOMMENDATIONS FOR IMPROVING TAXPAYER COMPLIANCE AND DEPARTMENT ADMINISTRATION

## NEW OR AMENDED STATUTES AND RULES -- 2005 LEGISLATIVE SUMMARY

(The legislation listed below is in numerical order by code citations affected. Legislation in order of Enrolled Acts may be found on our Web site at [www.in.gov/dor/reference/legal/pdfs/summary2005.pdf](http://www.in.gov/dor/reference/legal/pdfs/summary2005.pdf).)

### CODE CITATIONS AFFECTED

#### CHARITY GAMING (IC 4-32)

**IC 4-32-6-4.5 (effective upon passage)** to define a “bona fide business organization as an organization that is exempt from federal income tax under Section 501(c)(6) of the Internal Revenue Code. The organizations include business leagues and chambers of commerce.

**IC 4-32-16-6.4 (effective upon passage)** defines a “licensed supply” as bingo supplies, pull tabs, punchboards and tip boards.

**IC 4-32-6-20 (effective upon passage)** adds a bona fide business organization to the list of entities that are considered qualified organizations.

**IC 4-32-6-20.2 (effective upon passage)** adds a definition of “qualified personal property” to mean personal property leased by an organization to conduct an event on a body of water and used to conduct a raffle where the property is marked with a number corresponding to the number of a chance purchased in a raffle, with the winner of the raffle determined by the number on the item that crosses the finish line first. This is also commonly referred to as a “duck race.”

**IC 4-32-7-3 (effective upon passage)** provides that the Department may not adopt a rule that requires a qualified organization to use a minimum percentage of the qualified organization’s gross receipts for related activities for the lawful purpose of the organization. The Department is also precluded from adopting a rule to limit the rent that may be charged to a qualified organization to lease property for a “duck race.”

**IC 4-32-9-9.5 (effective upon passage)** is added to authorize the commissioner to issue an annual door prize license to a qualified organization if the organization pays the fee set by the Department, and meets other standards set by the Department.

**IC 4-32-9-16 (effective upon passage)** deletes the provision that allowed the Department to adopt a rule to set the allowable expenditures of a qualified organization. Adds a provision that determines the net proceeds from an allowable event to be the gross receipts from the event, minus the value of the prizes awarded at the event, the price paid for licensed supplies dispensed at the event, and the amount of the license fee attributable to the allowable event.

**IC 4-32-9-20 (effective upon passage)** adds a provision that the lease of qualified personal property for a “duck race” cannot be based on the revenue generated from the event, and the Department may not limit the amount of rent charged to the qualified organization for the qualified personal property.

**IC 4-32-9-37 (effective upon passage)** provides that a person that leases qualified personal property to an organization is not considered to be an operator or worker for the event.

**IC 4-32-9-38 (effective upon passage)** provides that the Department may not deny a license to an organization based on the amount of rent charged to the organization for the lease of qualified personal property.

**IC 4-32-11-3 (effective upon passage)** provides that the annual license fee for an annual door prize license is not based on the fee structure that relates to the renewal fee based on gross proceeds derived from the previous license.

**SEA 140 NON-CODE SECTION (effective upon passage)** provides that 45 IAC 18-3-7 and 45 IAC 18-3-8 are void. These rules concerned the use of proceeds by the qualified organization.

### **INDIANA ECONOMIC DEVELOPMENT CORPORATION (IEDC) (IC 5-28)**

**IC 5-28-6 (effective July 1, 2005)** is added to create a Global Commerce Center Pilot Program. The program is to be established in the Eastern Indiana Economic Development District by the Indiana Economic Development Corporation. Once a district is designated, the district shall send to the Department a copy of the designation of the global commerce center, a list of all employers in the center and the street names and range of street numbers of each street in the global commerce center. The district shall update the list before July 1 of each year. The Department within 60 days of receiving the list shall determine the income tax base period amount. The base period amount is the total of local option income taxes paid by employees employed in the territory for the fiscal year that proceeds the date on which the global commerce center was designated. Before October 1 of each year, the Department shall calculate the income tax incremental amount for the preceding state fiscal year. The global commerce center expires 15 years after it is designated by the corporation.

### **SALES AND USE TAX (IC 6-2.5)**

**IC 6-2.5-4-5 (effective upon passage)** is amended to provide that a business that expands its operations to an economic development area that is or formerly was a military base is entitled to a sales tax exemption for separately metered utility services.

**IC 6-2.5-4-5 (effective January 1, 2006)** is amended to expand the sales tax exemption for utilities consumed in a qualified base enhancement area. For a business located in a qualified base enhancement area, the business must satisfy at least one of the following criteria: The business is a participating business in the technology transfer program conducted by the qualified military base, the business is a United States Department of Defense contractor, or the business and the qualified military base have a mutually beneficial relationship.

**IC 6-2.5-5-20 (effective July 1, 2005)** is amended to clarify that tobacco is not a food item.

**IC 6-2.5-5-28 (effective July 1, 2005)** is added to define tobacco as cigarettes, cigars, chewing or pipe tobacco or any other item that contains tobacco for purposes of the Streamlined Sales and Use Tax Agreement.

**IC 6-2.5-5-37 (effective July 1, 2005)** is amended to expand the sales tax exemption for equipment owned or leased by a professional racing team to include any part of the vehicle excluding tires and accessories.

**IC 6-2.5-5-39 (effective July 1, 2005)** is added to define a cargo trailer and recreational vehicle, and to exempt from the sales tax aircraft, recreational vehicles and cargo trailers with a gross vehicle weight rating of 2,200 pounds. The exemption only applies to aircraft, recreational vehicles and cargo trailers that are purchased by a non resident and are going to be registered in another state or territory within 30 days. The exemption for aircraft is 100 percent of the tax that would be due for a sale to an Indiana resident. The exemption for a cargo trailer or recreational vehicle is the difference between the amount of tax that the item would be charged if the item was purchased by an Indiana resident and the amount that would be charged in the purchaser's state of residence. This equates to the purchaser paying the amount of tax that would be charged in the purchaser's home state to the state of Indiana at the time the cargo trailer or recreational vehicle is purchased. The act requires the selling dealership to have on file within 60 days of purchase, a copy of the purchaser's title or registration or pay to the state the amount of the exemption. The purchaser must complete an affidavit stating the purchaser's intent to register the trailer or vehicle in another state. The Department is required to provide the form of the affidavit and the information to the seller so that the correct amount of tax is collected at the time of the sale.

**IC 6-2.5-5-40 (effective July 1, 2005)** is added to provide that effective January 1, 2007, any research and development equipment is exempt from the sales tax.

**IC 6-2.5-6-16 (effective July 1, 2005)** is added to provide that research and development equipment that is purchased is exempt from 50 percent of the sales tax imposed. The taxpayer will file a claim for refund for tax paid on equipment purchased between July 1, 2005 and June 30, 2007.

**IC 6-2.5-11-10 (effective July 1, 2005)** allows a collection allowance that is provided by member states to sellers or certified service providers in exchange for collecting the sales and use tax under the Streamlined Sales and Use Tax Agreement.

### **ADJUSTED GROSS INCOME TAX (IC 6-3)**

**IC 6-3-1-3.5; IC 6-3-1-11; and IC 6-3-1-33 (effective January 1, 2005)** are amended to update the Indiana Code to coincide with the Internal Revenue Code in effect on January 1, 2005. There are exceptions to the update, and they include the increased bonus depreciation allowance, the increase for Section 179 expensing is capped at \$25,000, and the deduction allowed for domestic production activities under Section 199 of the Internal Revenue Code is not included.

**IC 6-3-2-1.5 (effective upon passage)** is amended to provide that a business that expands its operations to an economic development area that is or formerly was a military base is entitled to a corporate income tax rate of 5 percent instead of 8.5 percent for income attributable to business in the area.

**IC 6-3-2-1.5 (effective January 1, 2006)** is amended to include a corporation located in a qualified military base enhancement area as a corporation eligible for the five percent corporate adjusted gross income tax rate if it also satisfies at least one of the three criteria for the sales tax: 1) the business is a participating business in the technology transfer program conducted by the qualified military base, 2) the business is a United States Department of Defense contractor, or 3) the business and the qualified military base have a mutually beneficial relationship.

### **INCOME TAX CREDITS (IC 6-3.1)**

**IC 6-3.1-1-3 (effective January 1, 2005)** is added to provide that a taxpayer may not be granted more than one tax credit for the same project. The credits that are included are the enterprise zone investment cost credit, industrial recovery tax credit, military base recovery tax credit, military base investment cost credit, capital investment tax credit, community revitalization enhancement district tax credit, venture capital investment tax credit, and the Hoosier business investment tax credit.

**IC 6-3.1-4-1 (effective July 1, 2005)** is amended to clarify that the base amount for the research expense credit is Indiana qualified research expenses and gross receipts attributable to Indiana in the calculation of the taxpayer's fixed base percentage and average annual gross receipts.

**IC 6-3.1-4-2 (effective July 1, 2005)** is amended to provide that for qualified research expenses incurred after December 31, 2007, the credit is equal to the taxpayer's qualified research expense for the taxable year minus the base period amount, multiplied by 15 percent or \$1,000,000 whichever is less, and plus 10 percent of the excess over \$1,000,000.

**IC 6-3.1-4-2.5 (effective January 1, 2006)** is added to provide that a business engaged in the production of civilian and military jet propulsion systems, is a United States Department of Defense contractor, employs at least 3,000 people in Indiana, and pays more than 400 percent of the hourly minimum wage, may elect an alternative method of calculating the research expense credit. The taxpayer may elect to calculate the credit in the following manner. The credit will equal a percentage determined by the Indiana Economic Development Corporation not to exceed 10 percent multiplied by the taxpayer's Indiana qualified research expenses for the

taxable year minus 50 percent of the taxpayer's average Indiana qualified research expenses for the three preceding taxable years.

**IC 6-3.1-4-3 (effective January 1, 2006)** is amended to provide that the research expense credit carry forward is reduced from 15 years to 10 years.

**IC 6-3.1-7-7 (effective July 1, 2005)** is added which requires the Department to report to the Indiana Economic Development Corporation the number and amount of enterprise zone loan interest credits claimed per enterprise zone. These figures are reported annually based on the number of returns processed during the previous fiscal year.

**IC 6-3.1-11.5-17 (effective upon passage)** amends the Military Base Recovery Cost Credit to include a current or former military base in an economic development area as a vacant military base facility.

**IC 6-3.1-11.6-2 (effective upon passage)** amends the Military Base Investment Cost Credit to include a current or former military base in an economic development area as a qualified area.

**IC 6-3.1-11.6-2 (effective January 1, 2006)** is amended to include a qualified military base enhancement area as qualified for the military base investment cost credit.

**IC 6-3.1-11.6-9 (effective January 1, 2006)** is amended to provide that a taxpayer making a qualified investment in a business located in a qualified military base enhancement area must make the investment in a business that meets one of the following criteria: The business must be a participant in the technology transfer program conducted by the qualified military base, the business is a United States Department of Defense contractor, or the business and the qualified military base have a mutually beneficial relationship.

**IC 6-3.1-13-1; IC 6-3.1-13-12; and IC 6-3.1-26-2 (effective upon passage)** are repealed. The code cites repeal the EDGE Board and its approval of the Economic Development for a Growing Economy Tax Credit and the Hoosier Business Investment Tax Credit.

**IC 6-3.1-13-15 (effective July 1, 2005)** is amended to provide that if the business is located in a CRED district or a certified technology park, the local legislative body has adopted an ordinance recommending the granting of a credit amount that is at least equal to the credit amount provided in the EDGE agreement.

**IC 6-3.1-13-15.5 (effective July 1, 2005)** is amended to eliminate the requirement in EDGE for retention that at least one other state is competing for the project or the relocation of the jobs. Reduces the number of jobs from 200 to 75 that the applicant is required to employ in Indiana to be eligible for the retention credit. Reduces the requirement for a specific local match of \$1.50 for every \$3.00 of credit awarded and changes it to an amount determined by the Indiana economic development corporation. The amendment provides that the average wages that must be paid will be based on wages paid by the business's NAICS code and not the average wage paid in the county.

**IC 6-3.1 13-18 (effective July 1, 2005)** is amended to provide that EDGE for retention will be extended to June 30, 2007 from its current expiration date of June 30, 2005.

**IC 6-3.1-13-19 (effective July 1, 2005)** is amended to reduce the requirement that a business maintain its Indiana operations for twice as many years as the number of years that credits were granted, to two years after the last credit year in the agreement.

**HEA 1001, SECTION 246 (effective July 1, 2005)** provides that the amount of credits claimed during 2001, 2002, and 2003 for the Lake County income tax credit for property taxes paid (under **IC 6-3.1-20**) will be reimbursed to the property tax replacement fund during Fiscal Years 2006, 2007 and 2008.

**IC 6-3.1-21-10 (effective July 1, 2005)** is amended to extend the earned income credit to December 31, 2011. It was set to expire on December 31, 2005.

**IC 6-3.1-23-4 (effective January 1, 2005)** is amended to expand the use of the voluntary remediation tax credit to include all listed taxes and not just the sales tax, adjusted gross income tax, financial institutions tax, and insurance premium tax.

**IC 6-3.1-23-5 (effective January 1, 2005)** is amended to remove the requirement that the county legislative body determine the value of the remediation and determine that the taxpayer never had an ownership interest in the land that is contaminated.

**IC 6-3.1-23-6 (effective January 1, 2005)** is amended to increase the amount of credit available for each brownfield site from \$100,000 to \$200,000. The calculation of the credit is changed to 100 percent of the qualified investment up to \$100,000 and 50 percent of the qualified investment that exceeds \$100,000.

**IC 6-3.1-23-13 (effective January 1, 2005)** is amended to require the taxpayer to submit the certification received from the Indiana development finance authority when they are claiming the credit.

**IC 6-3.1-23-15 (effective January 1, 2005)** is amended to increase the amount of total credits allowed in a fiscal year from \$1,000,000 to \$2,000,000.

**IC 6-3.1-23-16 (effective January 1, 2005)** is amended to extend the tax credit from December 31, 2005 to December 31, 2007.

**IC 6-3.1-24-3 (effective May 15, 2005)** is amended concerning the venture capital investment tax credit to provide that a financial institution that has a valid mortgage or security agreement in an organization shall not be eligible for the venture capital investment tax credit.

**IC 6-3.1-24-7 (effective February 9, 2005)** is amended to include professional motor racing teams as a qualified business for purposes of the venture capital investment tax credit.

**IC 6-3.1-24-9 (effective February 9, 2005)** is amended to increase the annual cap on the amount of venture capital investment tax credits allowed from \$10,000,000 to \$12,500,000.

**IC 6-3.1-24-12 (effective January 1, 2006)** is amended to provide that the venture capital investment tax credit can only be carried forward for five years.

**IC 6-3.1-26-5.5 (effective May 15, 2005)** is added to make motion picture or audio production for theatrical, television, or other media viewing or as a television pilot eligible for the Hoosier business investment tax credit.

**IC 6-3.1-26-8 (effective May 15, 2005)** is amended to provide that distribution, transportation, or logistical distribution equipment and facilities will be a qualified investment for purposes of the Hoosier business investment tax credit.

**IC 6-3.1-26-10 (effective January 1, 2005)** is repealed. This section provided the definition of state tax liability growth for purposes of the Hoosier business investment tax credit.

**IC 6-3.1-26-14 (effective May 15, 2005)** is amended to reduce the percentage of qualified investment eligible for the tax credit from 30 percent to 10 percent. The act removes the provision that the credit is the lesser of the percentage of qualified investment or the tax liability growth.

**IC 6-3.1-26-15 (effective May 15, 2005)** is amended to provide that the credit carry forward will be determined by the Indiana Economic Development Corporation, but not to exceed nine years.

**IC 6-3.1-26-18 (effective May 15, 2005)** is amended to remove the requirement that the applicant has to have conducted business in Indiana for at least one year.

**IC 6-3.1-27-2.5 (effective January 1, 2005)** is added to define "corporation" as the Indiana Economic Development Corporation.

**IC 6-3.1-27-3.2 (effective January 1, 2005)** is added to define “distribute at retail” to mean selling at retail to an end user in Indiana.

**IC 6-3.1-27-3.5 (effective January 1, 2005)** is added to define “facility” as a facility that is located in Indiana and is for the production of biodiesel, blended biodiesel that is blended with biodiesel produced at a facility located in Indiana, or a facility that is for the production of both biodiesel and blended biodiesel.

**IC 6-3.1-27-8 (effective January 1, 2005)** is amended to provide that the corporation must certify facilities that are eligible for the biodiesel production credit. Eliminates a provision that the credit will be reduced by any credit or subsidy that the taxpayer is entitled to receive from the federal government for the production of biodiesel. The act raises the cap for the biodiesel production credit to \$3,000,000 per taxpayer for all taxable years. This amount can be adjusted to \$5,000,000 with the approval of the corporation.

**IC 6-3.1-27-9 (effective January 1, 2005)** is amended to provide that the blended biodiesel credit must be approved by the corporation, and the cap for a producer of blended biodiesel is increased to \$3,000,000 per taxpayer for all taxable years. The act eliminates the provision that the credit shall be reduced by any credit or subsidy that the taxpayer is entitled to receive from the federal government for the blending of biodiesel.

**IC 6-3.1-27-9.5 (effective January 1, 2005)** is added to provide that the total credits awarded for biodiesel production, biodiesel blending, and ethanol production may not exceed \$20,000,000 for all taxpayers for all taxable years.

**IC 6-3.1-27-10 (effective January 1, 2005)** is amended to provide that a dealer of blended biodiesel who sells at retail is permitted to claim the credit for biodiesel distributed at retail and not just sold through a metered pump. The credit expires on December 31, 2006.

**IC 6-3.1-27-12 (effective January 1, 2005)** is amended that the credit can only be carried forward for six years following the taxable year in which the credit was first entitled to be claimed. The act prohibits the taxpayer from selling, assigning, or otherwise transferring the credit.

**IC 6-3.1-27-13 (effective January 1, 2005)** is amended to provide that the credit must be approved and certified by the corporation.

**IC 6-3.1-28-1 (effective January 1, 2005)** is amended to define “corporation” as the Indiana Economic Development Corporation.

**IC 6-3.1-28-7 (effective January 1, 2005)** is amended to provide that a taxpayer wishing to claim the credit for ethanol production must be certified by the corporation as eligible for the credit.

**IC 6-3.1-28-10 (effective January 1, 2005)** is amended to provide that the taxpayer must provide a copy of the corporation’s certification in order to claim the credit.

**IC 6-3.1-28-11 (effective January 1, 2005)** is amended to provide that the maximum credit per taxpayer for all taxable years is \$3,000,000.

**IC 6-3.1-29 (effective January 1, 2006)** is added to create the Coal Gasification Technology Investment Tax Credit. The act provides that the credit is 10 percent of the taxpayer’s qualified investment for the first \$500,000,000 invested and five percent for the amount that exceeds \$500,000,000. The credit must be taken in ten equal installments beginning with the year that the facility is placed in service. The annual credit is the lesser of the amount determined above divided by ten, or the greatest of 25 percent of the adjusted gross income tax liability or the utility receipts tax liability. This amount is then multiplied by the amount of Indiana coal used in the taxpayer’s power plant in the taxable year.

**IC 6-3.1-30 (effective January 1, 2007)** is added to create the Headquarters Relocation Tax Credit. The act provides that a business that relocates its corporate headquarters to Indiana is entitled to a credit equal to 50 percent of the costs incurred in relocating the headquarters. The credit claimed in a taxable year cannot reduce



the taxpayer's tax liability to less than the liability incurred in the taxable year immediately preceding the taxable year in which the taxpayer incurred relocation costs. The credit can be carried forward for nine years and is not refundable and cannot be carried back to previous years.

## **COUNTY OPTION INCOME TAXES (IC 6-3.5)**

### **COUNTY ADJUSTED GROSS INCOME TAX (IC 6-3.5-1.1)**

**IC 6-3.5-1.1-9 (effective July 1, 2005)** is amended to provide that a county that increases its tax rate will receive the increased distribution in the calendar year following the adoption of the ordinance instead of having to wait until the year after the year that the ordinance is adopted.

### **COUNTY OPTION INCOME TAX (IC 6-3.5-6)**

**SEA 609 SECTION 11 (effective upon passage)** provides that the Department will make an adjustment in the certified distribution for a county that increased its COIT or CEDIT tax rate during 2004.

**IC 6-3.5-6-17 (effective July 1, 2005)** is amended to provide that a county that increases its tax rate, will receive the increased distribution in the calendar year following the adoption of the ordinance instead of having to wait until the year after the year that the ordinance is adopted.

**IC 6-3.5-6-27 (effective upon passage)** is added authorizing Miami County to increase its county option income tax rate by 0.25 percent to finance and construct a county jail. The county income tax council is given until June 1, 2005 to adopt the tax to be effective on July 1, 2005.

**IC 6-3.5-6-28 (effective upon passage)** is added authorizing Howard County to increase its county option income tax rate by 0.25 percent to fund the operation and maintenance of a jail, a county detention center, or both. The county income tax council is given until June 1, 2005 to adopt the tax to be effective on July 1, 2005.

### **COUNTY ECONOMIC DEVELOPMENT INCOME TAX (IC 6-3.5-7)**

**IC 6-3.5-7-5 (effective upon passage)** is amended to provide that the maximum county economic development income tax and county option income tax may not exceed 1.25 percent for Howard County.

**IC 6-3.5-7-13.1 (effective July 1, 2005)** is amended to provide that if Porter County increases its CEDIT rate after April 30, 2005, the first \$3,500,000 of tax revenue from the increase shall be used for the Northwest Indiana Regional Development Authority. The section also provides that if Lake County adopts CEDIT, some of the funds can be used for additional homestead credits.

**IC 6-3.5-7-25 (effective March 31, 2005)** is amended to extend until June 1, 2005 the ability of a county to pass an ordinance authorizing the use of the certified distribution of CEDIT revenue to be used for additional homestead credits to offset the inventory deduction.

## **INHERITANCE AND ESTATE TAX (IC 6-4.1)**

**IC 6-4.1-1-3 (effective July 1, 2004)** is amended to provide that a lineal descendant of a stepchild is a Class A transferee whether or not the stepchild is adopted by the transferor. An individual adopted after being totally emancipated shall be treated as a natural child of the adopting parent if the adoption was finalized before July 1, 2004.

**IC 6-4.1-4-2 (effective July 1, 2005)** is amended to provide that if the Internal Revenue Service allows an extension on a federal estate tax return, the corresponding due date for the Indiana inheritance tax return is automatically extended for the same period as the federal extension.

## **FINANCIAL INSTITUTIONS TAX (IC 6-5.5)**

**IC 6-5.5-1-2, and IC 6-5.5-1-20 (effective January 1, 2005)** are amended to update the Indiana Code to coincide with the Internal Revenue Code in effect on January 1, 2005. There are exceptions to the update, and they include the increased bonus depreciation allowance, the increase for Section 179 expensing is capped at \$25,000, and the deduction allowed for domestic production activities under Section 199 of the Internal Revenue Code is not included.

## **SUPPLEMENTAL AUTO RENTAL EXCISE TAX (IC 6-6-9.5 and IC 6-6-9.7)**

**IC 6-6-9.5 (effective July 1, 2005)** is added to authorize a two percent Vanderburgh County Supplemental Auto Rental Excise Tax. If the ordinance is adopted before June 1 of a year, the tax takes effect for auto rentals occurring after June 30.

**IC 6-6-9.7-7 (effective May 15, 2005)** is amended to authorize an increase in the Marion County Supplemental Auto Rental Excise Tax from two percent to four percent.

## **TAX ADMINISTRATION (IC 6-8.1)**

**IC 6-8.1-1-1 (effective July 1, 2005)** is amended to change the reference from county food and beverage taxes to the various food and beverage taxes.

**IC 6-8.1-3-17 (effective upon passage)** is amended to require the Department to establish a tax amnesty program for taxpayers with unpaid tax liabilities that were due and payable before July 1, 2004. The act provides that the amnesty period cannot exceed eight business weeks and must end before July 1, 2006. The program provides that upon payment of all listed taxes for a tax period, the Department will abate all penalties, interest and fees; shall not seek criminal or civil prosecution; and shall not issue or if issued shall withdraw any assessment, demand notice, or a warrant for payment of a listed tax. If the taxpayer participates in amnesty, the taxpayer is not eligible for any future amnesty program that may be established. Failure to pay all listed taxes due for a tax period invalidates any amnesty granted for that tax period. Any taxpayer that failed to add back riverboat wagering taxes as required under IC 6-3-1-3.5(b)(3) is not eligible for tax amnesty. The act requires the Department to conduct an assessment of the impact of the tax amnesty program on tax collections and an analysis of the costs of administering the tax amnesty program.

**IC 6-8.1-10-12 (effective upon passage)** is added to provide that a taxpayer that was eligible to participate in the tax amnesty program and did not pay the tax liability that was due, will have a penalty imposed that is double the penalty imposed on the original assessment. The penalty does not apply if the taxpayer has filed an appeal with the tax court for a liability that was eligible for the amnesty program. The additional penalty does not apply if the taxpayer has a legitimate hold on making the payment as a result of an audit, bankruptcy, protest, taxpayer advocate action, or another reason permitted by the Department. The penalty does not apply if the taxpayer had established a payment plan with the Department before the effective date of the act or can verify with reasonable particularity that is satisfactory to the commissioner that the taxpayer never received the notice of outstanding tax liability.

## **INNKEEPER'S TAXES & OTHER LOCAL TAXES (IC 6-9)**

**IC 6-9-7-6 (effective July 1, 2005)** is amended to authorize an increase in the Tippecanoe County innkeeper's tax from five percent to six percent.

**IC 6-9-8-3 (effective May 15, 2005)** is amended to authorize an increase in the Marion County innkeepers' tax from six percent to nine percent. The ordinance if adopted will go into effect on July 1, 2005.



**IC 6-9-12-5 (effective May 15, 2005)** is amended to authorize an increase in the Marion County food and beverage tax from one percent to two percent effective July 1, 2005.

**IC 6-9-13-2 (effective May 15, 2005)** is amended to increase the Marion County admissions tax from five percent to six percent.

**SEA 329 (effective January 1, 2005)** authorizes the food and beverage tax to remain in effect in Henry County until December 31, 2015. The amended sections include IC 6-9-25-1; IC 6-9-25-9.5; IC 6-9-25-10.5 and IC 6-9-25-11.5.

**IC 6-9-27-1 (effective July 1, 2005)** is amended to authorize the town of Avon and the city of Martinsville to adopt a one percent food and beverage tax.

**IC 6-9-35 (effective May 15, 2005)** is amended to authorize Boone, Johnson, Hamilton, Morgan, Hancock, Hendricks and Shelby counties and the cities or towns of Carmel, Fishers, Greenfield, Lebanon, Noblesville, Westfield and Zionsville to adopt a food and beverage tax if Marion County increases its food and beverage tax by July 1, 2005. If the counties impose a food and beverage tax, it is in addition to the tax already imposed or authorized in Mooresville, Plainfield, Brownsburg, Avon and Martinsville. If the counties impose a tax, and then the cities or towns of Carmel, Fishers, Greenfield, Lebanon, Noblesville, Westfield and Zionsville, the municipal food and beverage tax is in addition to the county food and beverage tax. Fifty percent of the tax imposed by the counties authorized to impose the tax is paid to the capital improvement board of Marion County and fifty percent is retained by the county. If the total amount that is received by the CIB from the counties exceeds \$5,000,000 in a fiscal year, then all the counties are to retain the remainder of the tax collected. All money collected by a municipality is for the use of the municipality to reduce property taxes or for any legal purpose of the municipality.

**IC 6-9-36 (effective May 15, 2005)** is added to authorize Lake and Porter counties to impose a one percent food and beverage tax. The tax takes effect after the last day of the month that follows the month in which the ordinance was adopted. Revenue from the tax is to be paid to the northwest Indiana regional development authority.

**IC 6-9-37 (effective July 1, 2005)** is added to authorize Hendricks County to impose an innkeepers' tax up to a maximum of eight percent with any tax revenue attributable to a rate that exceeds five percent, will be divided equally between tourism promotion and for the development of a county park, county fairground, or a county promotion.

**IC 6-9-38 (effective July 1, 2005)** is added to authorize Wayne County to adopt a food and beverage tax. It also authorizes a city or town in the county to adopt a food and beverage tax. A municipality cannot adopt an ordinance until after July 31, 2006 unless the county unit relinquishes its authority to adopt an ordinance. If both the county and a municipality adopt the tax, the tax imposed by the county does not apply within the territory of the municipality imposing the tax.

#### **MOTOR CARRIER SERVICES (IC 8-2.1)**

**IC 8-2.1-24-18 (effective upon passage)** is amended to provide that a certain federal requirement concerning diabetic drivers who operate motor vehicles for private carriers of property does not apply when the vehicle is operated intrastate.

#### **MOTOR VEHICLE REGISTRATION (IC 9)**

**IC 9-18-2-7 (effective July 1, 2005)** is amended to provide that the bureau of motor vehicles can establish a staggered registration system for intrastate carriers.

## **WASTE TIRE FEE (IC 13-11)**

**IC 13-11-2-245 (effective July 1, 2005)** is amended to change the definition of vehicle for purposes of the waste tire fee to include a farm tractor, an implement of husbandry, and a semitrailer.

## **OIL INSPECTION FEE (IC 16-44)**

**IC 16-44-2-18 (effective July 1, 2005)** is amended to increase the inspection fee on gasoline and kerosene from \$0.008 to \$0.01 per gallon effective July 1, 2005.

**IC 16-44-2-18.5** is added to impose a special fuel inspection fee of \$0.01 per gallon. The inspection fee is not imposed on special fuel that is exempt from the special fuel tax under IC 6-6-2.5-30. The fee shall be collected and remitted at the same time as the special fuel tax. Revenue from the fee shall be deposited in the underground petroleum storage tank excess liability trust fund.

## **LOCAL GOVERNMENT PROVISIONS (IC 36)**

### **COMMUNITY REVITALIZATION ENHANCEMENT DISTRICTS (CRED) - IC 36-7-13**

**IC 36-7-13-3.4 (effective July 1, 2005)** is amended to provide that the income tax incremental amount for the CRED is the amount of state and local income taxes paid by the employees employed in a district, minus the sum of the base period amount plus the tax credits awarded under the EDGE credit to businesses operating in a district as a result of wages earned in the district.

**IC 36-7-13-10.5; IC 36-7-13-12; and IC 36-7-13-12.1 (effective July 1, 2005)** are amended to provide that in economically distressed counties and in counties or municipalities that adopt an ordinance designating a district, the local legislative body shall publish notice and file a copy of the notice, stating the economic benefits and costs incurred by the district and the impact on tax revenues of each taxing unit.

**IC 36-7-13-13 (effective July 1, 2005)** is amended to provide that when a CRED district is created, the legislative body that created the district will provide the Department on an annual basis a list of employers in the district including the federal identification number for each business in the district, the street address, and the name, telephone number and e-mail address of a contact person for each business in the district.

**IC 36-7-13-14 (effective July 1, 2005)** is amended to provide that businesses operating in a CRED shall report to the Department information necessary to calculate incremental sales and income taxes attributable to the district.

**IC 36-7-13-21 (effective July 1, 2005)** is added to provide that two or more advisory commissions or legislative bodies may jointly undertake CRED projects.

### **MARION COUNTY PROFESSIONAL SPORTS DEVELOPMENT AREA (PSDA) IC 36-7-31**

**IC 36-7-31-11 (effective May 15, 2005)** is amended to provide that a tax area may be changed only to include a site or a future site that is subject to a lease under the capital improvements board or Indiana stadium and convention building authority.

**IC 36-7-31-14.1 (effective May 15, 2005)** is added to provide that the budget director can increase the annual cap of state sales and income tax that may be allocated to a professional sports development district in Marion County from \$5,000,000 per year to \$16,000,000 per year.

## **PROFESSIONAL SPORTS DEVELOPMENT AREA (PSDA) IC 36-7-31.3**

**IC 36-7-31.3-9 (effective May 15, 2005)** is amended to provide that after May 14, 2005, a PSDA may not change its area.

## **CERTIFIED TECHNOLOGY PARKS (CTP) (IC 36-7-32)**

**IC 36-7-32-6.5 (effective July 1, 2005)** is added to provide the definition of gross retail incremental amount for CTPs increment financing.

**IC 36-7-32-8.5 (effective July 1, 2005)** is added to provide the definition of income tax incremental amount for CTPs increment financing.

**IC 36-7-32-10 (effective July 1, 2005)** is amended to authorize expansion of the CTP to adjacent territory located in another county.

**IC 36-7-32-26 (effective July 1, 2005)** is added to provide that two or more redevelopment commissions may jointly undertake economic development projects in the CTPs established by the redevelopment commissions.

## **NON-CODE PROVISIONS**

**HEA 1120, SECTION 87 (effective upon passage)** provides that the legislative body of each unit that contains an enterprise zone shall before December 1, 2005 adopt and forward to the enterprise zone board a resolution containing the legislative body's recommendation as to whether the zone should continue in existence or be terminated effective December 31, 2005. If the legislative body fails to adopt a resolution, it shall be considered to be recommending the termination of the zone.

**HEA 1662, SECTION 1 (effective January 1, 2003)** requires the Department to collect a quality assessment from each health facility that is not a nursing facility. The collection of the fee does not occur until the waiver request submitted is approved. The Department shall establish a method to allow a facility to enter into a payment plan to pay the assessment. If a health facility fails to pay the assessment within ten days of the due date, the facility is required to pay interest on the assessment. The Department is required to report each facility that fails to pay within 120 days after the assessment is due. The state Department of Health shall notify each facility that has not paid the assessment that the facility's license will be revoked if the assessment is not paid.

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## IMPROVEMENTS IN THE TRAINING OF DEPARTMENT EMPLOYEES

Audit Division provided training to new and veteran auditors throughout Fiscal Year 2005. Classes for new auditors focused on providing tax skills, computer training and report writing. Seminars for veteran auditors were presented to enhance tax auditing skills for newly-enacted laws. Training for new field investigators focused on reporting accountability and techniques for collection and depositing taxes owed to the state of Indiana.

The Human Resources Division conducted the following classes for Department employees during FY05:

<b><u>Class Name</u></b>	<b><u>Number Attended</u></b>
ABC's of Discrimination	53
Cultural Diversity Awareness	111
Ethics for State Employees	89
Family and Medical Leave Policy Changes	89
Intermittent Orientation	124
Microsoft Word 2003	79
New Employee Orientation (combined 101/102)	2
New Employee Orientation 101	87
New Employee Orientation 102	64
Opening Mail	12
Performance Appraisals	120
Preventing Violence in the Workplace	316
RPS Inquiry	17
RPS/AR Basics	76
Sexual Harassment Prevention	52
Update on Policies and Procedures	91

Ongoing training is conducted for customer service representatives who work with taxpayers in person, by telephone and via U.S. Postal, electronic (e-mail) and FAX correspondence. In addition, staff members routinely attend workshops and seminars outside of the Department to remain active and to advance in their professions.

## IMPROVEMENTS IN TAXPAYER COMMUNICATION AND EDUCATION

The Department conducts workshops and seminars throughout the year for various segments of the public. Several seminars are offered to Indiana tax professionals on subjects such as Federal/State e-File and for QFIT (Quality for Indiana Taxpayers) and the annual tax schools hosted by Purdue and Indiana Universities.

New state regulations are taught to volunteers of VITA (Volunteer Income Tax Assistance) and other groups that provide free tax preparation for disabled and low to moderate income taxpayers; instructional seminars are geared toward nonprofit organizations that conduct, or would like to conduct, charity gaming activities; and, workshops are conducted specifically for new and small businesses on topics such as sales and use tax and how to get started on the right track with the Indiana Department of Revenue, among others.

In addition, the Department's Taxpayer Services Division, alone, assisted the following numbers of taxpayers in Fiscal Year 2005:

• telephone calls	337,081	• letters	42,469
• e-mail messages	21,641	• walk-in taxpayers	14,149

## INCREASES IN THE ENFORCEMENT CAPABILITY OF THE DEPARTMENT

Several new initiatives were begun by the Department's new administration in the latter half of Fiscal Year 2005, such as "Street Sweep" that put additional auditors "on the streets," and Indiana Governor Mitch Daniels' first-ever Tax Amnesty program for Indiana scheduled for Fiscal Year 2006. Also, previously unemphasized areas of potential tax evasion, such as motor vehicle and aircraft excise taxes, were targeted.